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AUTHOR Mizell, M. Hayes
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ABSTRACT

This paper discusses two examples of federal agencies which administer laws fundamental to the protection and advancement of the educational interests of minority children: the Office for Civil Rights, and the Division of Education for the Disadvantaged. Provisions of these laws can be construed as protective standards which may provide the major potential for enforceable safeguards for the educational interests of minority students participating in minimum-competency programs. However, if that potential is to be realized, federal agencies with appropriate jurisdictions must take greater initiatives. While the extent to which the current lack of initiative may be detrimental to the educational interests of minority children is unknown, the possibility of harm is certainly increased by the absence of promulgated policies and legal interpretations. So far, the interest in minimum-competency programs on the part of these two federal agencies has been largely reactive. Whether a reactive role is in the best educational interests of protected classes or even consistent with the spirit of those agencies' administrative and enforcement obligations is questionable. Meanwhile, minimum-competency programs are being implemented, protected classes of students are being affected by them, and there are no recognized or enforced standards to assure that the educational interests of those students will be protected.
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MINIMUM COMPETENCY PROGRAMS,
PROTECTED CLASSES, AND FEDERAL AGENCIES

by

M. Hayes Mizell

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ERIC Clearinghouse on Tests, Measurement, & Evaluation
Educational Testing Service Princeton, NJ 08541

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ERIC Clearinghouse on Tests, Measurement, & Evaluation
Educational Testing Service
Princeton, NJ 08541

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Preface

To address questions concerning the implications for minority groups of the movement toward minimum competency testing, Robert A. Feldmesser, a senior research sociologist at Educational Testing Service, organized a symposium at the 1979 meeting of the National Council of Measurement in Education. In recognition of the significance of the issue, the ERIC Clearinghouse on Tests, Measurement, and Evaluation encouraged and supported Dr. Feldmesser's efforts and agreed to publish the papers presented in order to bring them to the attention of a wide audience.

The following paper was one of those presented at the symposium. We hope that its appearance in print will sensitize the educational community and the general public to the issues involved and will stimulate discussion and a search for satisfactory solutions.

Barbara M. Wildemuth
Associate Director, ERIC/TM

Minimum Competency Programs,
Protected Classes, and Federal Agencies
M. Hayes Mizell

As minimum-competency programs for students have gained popularity among educational policy makers, persons who are advocates for the educational interests of racial and language minority students have become divided as to whether competency programs will benefit or harm minority children. On the one hand, advocates recognize that too many minority children have been and continue to be victims of educational neglect and of educators' lack of accountability to parents. Advocates also understand that, because certain competencies are important prerequisites for employability and advancement, minority children can benefit if they are taught and master those competencies.

On the other hand, advocates know from experience that in spite of the sophistication of educational innovations and the promises of pedagogy, the gap between the proclaimed benefits of an educational policy and the reality of practices at the school-building and classroom levels often works to the detriment of minority children. For example, programs for handicapped students are necessary, but culturally different children are placed in them with disproportionate frequency. Testing programs are important, but too many minority children have been labeled, tracked, and inappropriately taught because of the misuse of tests. Programs of compensatory education are essential, but when they are implemented as narrow remedial efforts based on assumptions about the permanent effects of educational disadvantage, the educational progress of minority children may be impeded.

The experiences of advocates who work with minority children and their parents have taught them that allegedly beneficent systems and programs are not immune from harmful practices which arise from oversight, poor management, ignorance, insensitivity, incompetence, lethargy, discrimination, racism, or merely good intentions gone awry. Of course, no program that is conceptually sound should be abandoned solely because it may founder on the shoals of human inadequacy or bad faith. But when there is extensive evidence that certain groups of children in educational systems have consistently been most at risk, then it is important for programs to be designed, implemented, and have effects so as to assure that the educational interests of those children are at least protected, if not advanced.

Protective Standards for MCT

From this perspective, the following may be considered as a set of protective standards by which minimum-competency programs should be judged¹:

1. Minimum-competency programs should not penalize minority students by nonpromotion, nongraduation, denial of a regular diploma, or award of a certificate of attendance) when their failure to meet required per-

- formance standards can be attributed to: (a) the school system's failure to provide equal educational opportunities in the years prior to the imposition of the competency program; (b) the school system's practice of routinely passing students from grade to grade without first assuring they had mastered essential basic skills; (c) the school system's failure to provide students or their parents with adequate notice that they would be held accountable for meeting certain performance standards; (d) the school system's failure to teach the specific skills required to meet the performance standards mandated by the competency program; or (e) the failure of the school system to provide students who have previously not met the competency standards with the type of instruction necessary to assist them in meeting the requirement.
2. Minimum-competency programs should not utilize tests which, in effect, measure students' racial, class, cultural, or family-language background rather than their abilities to demonstrate their mastery of skills which have been taught as part of the school curriculum.
 3. Minority students' failure to meet minimum-competency standards should not lead to grouping practices for corrective instruction which result in creating separate classes identifiable by race or language group. Similarly, such students should not be assigned to special curriculum tracks.
 4. Educators should be trained and directed to determine students' competencies in relation to specific objective criteria; performance standards which require educators to make subjective judgments about students' competencies should not be used.
 5. Minimum-competency programs should not require students to meet performance standards for particular grade levels when students have not previously been enrolled in the school system/state mandating the competency program.
 6. States and local school districts should make available the funds necessary to provide appropriate and effective supplementary instruction to enable students who do not meet certain performance standards to have opportunities to master the required competencies.
 7. Minimum-competency tests should meet the standards of major professional organizations regarding test construction, administration, and interpretation.

While these seven standards may provide minimal protection for the educational interests of minority students, they have not been advocated by any organization that has credibility and influence. It is problematical whether the standards would be taken seriously by policy makers and educators responsible for developing and implementing minimum-competency programs. Accepting these

standards, and adhering to them, may conflict with the preferences or philosophies of public officials. It is likely that only a strong sense of professional responsibility, fairness, and a genuine concern for the educational interests of minorities will motivate educators to recognize these standards and insist that minimum-competency programs be judged by them.

However, there is another set of protective standards that are more compelling and that educators and policy makers must take more seriously. During the past 15 years, the federal government has assumed a major role in advancing and protecting the educational rights and opportunities of racial and language minorities, citizens with handicapping conditions, and women. These groups have become the beneficiaries of the federal government's regulatory and enforcement authority as a result of such laws as Title VI of the 1964 Civil Rights Act²; Title I of the 1965 Elementary and Secondary Education Act, as amended³; Title IX of the 1972 Education Amendments⁴; and Section 504 of the Rehabilitation Act of 1973⁵. Groups of persons covered by these laws are generally referred to as "protected classes."⁶

Through the years, educators and policy makers at the state and local levels have learned the importance of these laws and of the federal agencies charged with developing, promulgating, and enforcing the regulations issued pursuant to them. When the agencies have been vigorous and vigilant in their roles, they have served the educational interests of the groups that are intended to benefit from the laws. When the agencies have been lethargic and inept, they have compromised the laws' potential effectiveness. In either case, however, the laws and the federal agencies' enforcement of them have had a significant impact on the way educational policies and programs are conceived and implemented at the state and local levels. If the federal agencies speak, in the form of policies or regulations, state and local decision makers are guided by what is said, even if they don't agree with it. If, on the other hand, the agencies fail to speak or act, state and local leaders assume that their course of action is not in conflict with federal policy, even though their actions may be in violation of the law.

The emergence of minimum-competency programs for students in two-thirds of the states has occurred as a result of local initiative, undirected and largely uninfluenced by federal laws or by federal agencies. However, because the

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federal government has become, to a large extent, the guardian of the educational interests of certain protected classes, it has a critical role to play in assuring that minimum-competency programs do not discriminate against these groups. Federal policies, laws, and regulations designed to protect and advance the educational interests of protected classes represent standards which state and local policy makers and educators must take seriously when developing and implementing minimum competency programs, and they are the only standards which can be effectively enforced.

The purpose of this paper is twofold: (1) to examine how two federal agencies, the Office of Civil Rights and the Division of Education for the Disadvantaged, which are responsible for protecting and expanding the educational interests of protected classes have addressed the minimum-competency issue; and (2) to illustrate the relation between (a) selected federal education policies, laws, and regulations, and (b) the possible effects of state and locally mandated minimum-competency programs on students in protected classes⁷. This paper is not intended to provide an exhaustive analysis of the many federal policies, laws, and regulations upon which a number of federal administrative or enforcement agencies might base their involvement in the minimum-competency issue. Nor does it address the various legislative initiatives relating to minimum competency that have been considered by Congress.

The Office for Civil Rights

The Office for Civil Rights (OCR) of the U.S. Department of Health, Education, and Welfare is the agency charged with enforcing several civil rights laws as they relate to programs administered by HEW. From a staff of three persons in 1965, OCR has grown to a staff of nearly 1,800 persons and has a budget of approximately \$62 million.

One of the most important laws OCR is charged with enforcing is Title VI of the 1964 Civil Rights Act. That title provides that:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance.

Through its enforcement of this law, OCR has been active in causing public schools to be desegregated and has attacked a broad range of discriminatory practices in public schools concerning class assignment or ability grouping, discipline, extracurricular activities, and special education placement.

OCR has also taken enforcement actions on the basis of regulations issued under Title VI and under the 1972 Emergency School Aid Act, which provides financial assistance to local school districts to assist them with the process of school desegregation.⁸ In 1977, the OCR began to enforce regulations implementing Section 504 of the Rehabilitation Act of 1974, a law which requires the elimination of discrimination on the basis of handicap in any program or activity receiving federal funds.⁹

OCR enforces laws under its jurisdiction in one of three ways: (1) It responds to complaints from citizens, community groups, or third parties who allege that an educational institution has practiced unlawful discrimination. (2) Using information obtained from its periodic surveys of educational institutions, it conducts compliance reviews of selected institutions to determine if unlawful discriminatory practices exist. (3) It routinely checks school districts which apply for Emergency School Aid Act funds to determine if they are in compliance with civil rights standards that the law sets forth as a condition for eligibility.

OCR also issues occasional policy memoranda in an effort to inform recipients of federal funds of their obligations under federal civil rights laws. These memoranda are developed within OCR's Office of Standards, Policy, and Research. They interpret how federal laws and regulations under OCR's jurisdiction apply to specific programs or practices. For example, OCR has promulgated policies regarding the responsibilities of educational institutions engaged in the identification, placement, and provision of services for protected classes of children in special education programs.¹⁰ OCR has also issued policies regarding civil rights requirements for the education of language-minority children¹¹ and the application of Title IX of the 1972 Education Amendments to the athletic programs of educational institutions.¹² Most policies relate to issues about which there are questions and a lack of clarity concerning the applicability of certain federal civil rights laws and regulations.

To date, the OCR has received only one complaint specifically related to the possible discriminatory effects of a minimum-competency program. In January 1979, the Puerto Rican Legal Defense Fund submitted a complaint on behalf of ASPIRA of New York alleging that the proposed New York State competency test would discriminate against language-minority children. By late April, OCR had reached no decision concerning the complaint, perhaps because the agency has no policy regarding the effects of competency programs. There are also class action litigations on behalf of black students in Florida and

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North Carolina challenging those states' minimum-competency programs on the grounds that they are racially discriminatory. These legal actions emphasize the need for OCR to develop policies that will clarify the application of federal civil rights laws and regulations to minimum-competency programs.

State or locally mandated minimum-competency programs could be designed or implemented or have effects that conflict with federal civil rights laws and regulations under OCR's jurisdiction. For example, it is highly likely that large numbers of students not meeting the requirements of minimum-competency programs will be minority or handicapped children. Many competency programs require students who do not meet performance standards to receive remedial instruction, and it is certainly possible that such students will be grouped in separate classes for remediation. Under the regulations of the Emergency School Aid Act, minority students could be deemed racially isolated if they are overrepresented in classes which occupy "more than 25 percent of the school day classroom periods," unless school officials can demonstrate that the classes represent "bona fide ability grouping." The regulations set forth four paragraphs of criteria which constitute a definition of "bona fide ability grouping." The crux of the requirements is that school administrators must be able to show that there are educational benefits for students in racially isolated classes and that students are achieving more (or are achieving at a higher rate) than they would have achieved in regular classes with students of all races or ethnic groups.¹³

Many school districts are already confused about OCR requirements concerning the grouping of students for instructional purposes and there is a need for guidance concerning grouping practices that might arise as a result of minimum-competency programs. OCR does not need to issue new policies, but it should explain how existing regulations apply to the grouping of students for the purpose of minimum-competency remediation.

Minimum-competency programs may also be implemented in such a way as to penalize minority students for the effects of prior discrimination. Students who were required by a state to attend segregated schools for the first four years of their schooling, before schools were desegregated, may have serious educational deficiencies which were not corrected during the next six years of desegregation. Requiring such students to successfully demonstrate minimum competencies in basic skills in the eleventh grade as a condition for promotion or graduation could be regarded as discriminatory, since they had been denied equal educational opportunities on the basis of race when enrolled in the primary grades, where basic skills were supposed to be emphasized. The Title VI regulations mandate that a recipient of federal funds "must take affirmative action to overcome the effects of prior discrimination." A minimum-competency

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program that penalizes minority students formerly enrolled in segregated schools may be regarded as discriminatory if the school district cannot demonstrate that it made affirmative efforts to overcome the effects of prior discrimination by teaching the basic skills which the competency test assesses.¹⁴

A finding of discrimination may also arise when minimum-competency programs "utilize criteria or methods of administration" which lead to the failure of a disproportionate percentage of minority students to meet the competency standards. Such disproportionate results could occur if the administration of the test entails imposing the competency requirements with inadequate lead-in time for students to learn the skills necessary to meet the new standards. This could have "the effect...of defeating or impairing accomplishment of the objectives" of the educational program for minorities.¹⁵

Some minimum-competency programs may also conflict with Section 504 of the Rehabilitation Act of 1973. That act provides that no qualified person with a handicap can "be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination under any program activity because of the individual's handicapping condition." Minimum-competency programs that either prohibit all handicapped children from participating in them or restrict the participation to children with certain kinds of handicapping conditions would violate that provision, insofar as the exclusions and restrictions were based solely on the students' handicapping conditions. A parent may feel his/her handicapped child should be able to receive the "benefit" of being labeled as minimally competent, either by having the option to take the same minimum-competency test as all other children or by having the opportunity to meet differential standards of minimum competency that are a reasonable accommodation to the student's handicap.¹⁶

These possible consequences of minimum-competency programs were pointed out by the author in a letter to the Atlanta regional office of OCR in September 1977.¹⁷ The regional office did not reply, presumably because OCR had no policy concerning the civil rights implications of minimum-competency programs. The regional office sent the inquiry to the Washington office for a reply. In February 1978,¹⁸ the author wrote to the director of OCR who finally responded in May of 1978. However, the director did not address the substance of the issues that had been raised but instead indicated that his office was "in the process of developing a comprehensive policy to cover the whole array of issues associated with competency testing." He concluded: "We are particularly anxious to have clear, definite policies which recipients and protected classes alike can understand."¹⁹

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By the following month, the OCR director had sent an internal memorandum to three other high-level OCR officials, including the director and deputy director of the Office of Standards, Policy, and Research. In the memo, the OCR director expressed his conviction "that the use of tests presents us with one of the most serious civil rights problems in the country." He went on to state his opinion that "it is extremely important to devote substantial resources to developing policy guidance regarding the applicability of Title VI to testing" and he expressed particular concern about the use of competency testing in elementary and secondary schools. The memorandum asked the officials to whom it was sent to "assign someone on the staff at a relatively high level to work on this issue on a full-time basis." He also asked the OCR staff to develop an issue paper, a staffing and consultancy plan, and a plan for developing the policy.²⁰

In the summer of 1978, the OCR director received at least two letters from heads of national organizations asking that OCR give attention to minimum-competency issues and their impact on minorities. The director of the Children's Defense Fund, a national advocacy organization concerned with children's rights and child welfare, wrote urging the OCR to "act immediately by issuing OCR's views on possible civil rights implications of minimum competency programs and the parameters within which minimum competency programs must function in order not to come into conflict with federal civil rights laws."²¹ The president of the National Consortium on Testing, a coalition of more than three dozen national educational organizations concerned with standardized testing and alternative means of educational assessment, also wrote the OCR director urging OCR to "inquire into the effects of minimum competency testing programs on minority populations."²² In his October 1978, reply the OCR director stated, "We are beginning to develop Title VI policy applicable to these tests. It is important for us to have sufficient research carried out to provide a firm foundation for policy development."²³

Indeed, in the fall of 1978, OCR was preparing a request for proposals in an effort to secure some of the research and policy analysis believed to be necessary to deal with the minimum-competency issue. In late October, the OCR director met with the HEW Assistant Secretary for Education and the director of the National Institute of Education (NIE) to discuss the minimum-competency issue. The meeting resulted in a closer working relationship between several OCR and NIE staff members and a transfer of some funds from OCR to NIE to assist in research efforts regarding minimum-competency programs. The OCR has also established a two-person task force within its Division of Standards,

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Policy, and Research to work on the competency issue, but the staff must work on other issues as well. The task force has collected and reviewed materials and has held discussions with experts on minimum-competency programs and measures. However, little progress has been made on substantive issues, no consultants have been hired, and no request for proposals has ever been published. OCR staff members have said that a policy or guidelines may be ready by the fall of 1979, or before, but OCR often fails to meet its deadlines.²⁴

Meanwhile, the Atlanta regional office of OCR was dealing first-hand with the discriminatory use of competency testing. In response to a complaint, the regional office found that a school district in Florida intended to retain a large number of national-origin minority children at their current grade level because the children had not met the required standards on the minimum-competency test. Since the office also found that the district had not been providing appropriate educational services to these children, as required by Title VI regulations, it ordered the district not to retain the children at the same grade level.²⁵

Title I and Minimum Competency Programs

The Division of Education for the Disadvantaged is a part of the Bureau of Elementary and Secondary Education of the U.S. Office of Education. It has the responsibility for administering one of the largest federal aid-to-education programs, Title I of the Elementary and Secondary Education Act. Under Title I, the federal government provides \$3.5 billion to state and local school systems to meet the special needs of about 6.5 million disadvantaged children. Schools with the largest numbers of children from low-income families are the recipients of the funds, but students are supposed to be selected to participate in the program on the basis of their measured educational achievement. Because of the high correlations among factors of family income, educational achievement, and race, many of the children who receive Title I services are minority students from low-income families, especially in those parts of the nation with large minority-group populations. Nationwide, about 34 percent of the children participating in programs funded by Title I are black and about 10 percent are Spanish surnamed.

The possible conflicts between Title I and minimum-competency programs must be understood within the context of the Title I law and regulations. Title I provides funds so that schools can pay the cost of extra programs and services for educationally disadvantaged children who are most in need. Schools cannot use Title I funds to "supplant" state and local funds normally used to pay for regular educational programs and services. Children participating in programs

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funded by Title I are supposed to receive what all other children receive as part of the regular school program, and then receive supplemental assistance paid for with Title I funds.²⁶ Even though many pupils in a school may be in educational need, there is not enough Title I money to provide extra programs and services for all children eligible to receive Title I assistance. The regulations therefore include a "concentration-of-service" requirement, which mandates that students most in need participate in Title I programs.²⁷ Regulations also require school districts to conduct an annual needs assessment in order to determine the educational needs of children eligible for Title I services.²⁸

The potential for abuse of Title I funds in relation to minimum-competency programs is important to the educational interests of minority children. If the funds are used in ways that violate Title I laws and regulations, there will be less money available for programs for eligible minority children most in need. Because Title I is regarded by many people as a remedial program, and because many minimum-competency programs require remediation after students' basic skill deficiencies are identified, the use of Title I funds may be seen by some school officials as a way to underwrite the cost of such remediation.

In a January 1978, letter to the author, the U.S. Commissioner of Education pointed out that there are restrictions on the use of Title I funds to provide the remediation required by state or locally mandated competency programs. He indicated that use of Title I funds for such remediation could conflict with the Title I regulation that states: "Title I funds shall not be used to provide services which the applicant agency is required to provide by State law..." However, the Commissioner also stated that if state and local funds were provided for the remediation of skill deficiencies and if they were used in a manner "which is fair and equitable to Title I program participants," then Title I funds could be used in connection with a state's mandated minimum-competency program. In such a case, the Title I funds would have to be used "to provide supplementary services in accordance with specific measurable objectives to meet the additional needs of those identified project area children already receiving remediation provided by state and local funds."²⁹

The Commissioner's letter pointed out that the scores on a mandated minimum-competency test could be used as "one of the data sources for a needs assessment, but it could not be used as the only one." He also stated that in determining which children within target schools were eligible for Title I programs, "it is possible to use the competency test scores for final selection purposes in grades for which such scores are available." He cautioned, however, that such a selection process must be consistent with other requirements of Title I regulations.

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The Commissioner's letter, of course, was drafted by staff in the Division of Education for the Disadvantaged (DED). It was written in response to the author's inquiry concerning the relationship between Title I regulations and the potential use of Title I funds for assistance in carrying out the mandates of minimum-competency programs. Prior to this inquiry, neither USOE nor DED had taken the initiative for defining the relationship between Title I regulations and minimum-competency programs. The Commissioner's letter is apparently the only document that USOE or DED has ever developed that addresses this subject. Officials within DED report that from time to time questions have been raised about using Title I funds in connection with minimum-competency programs, but generally the officials at the state level who are responsible for administering Title I funds are so unfamiliar with the regulations that have been unaware of the limited ways in which Title I funds can be used. DED has taken no initiative to monitor the use of Title I funds in minimum-competency programs at the local school-district and building levels, so there is no assurance Title I regulations are being followed.³⁰

Conclusion

This paper has discussed two examples of federal agencies which administer laws fundamental to the protection and advancement of the educational interests of minority children. Provisions of these laws can be construed as protective standards that may provide the major potential for enforceable safeguards for the educational interests of minority students participating in minimum-competency programs. However, if that potential is to be realized, federal agencies with appropriate jurisdictions must take greater initiatives to examine how the laws and regulations they administer relate to minimum-competency programs. While the extent to which the current lack of initiative may be detrimental to the educational interests of minority children is unknown, the possibility of harm is certainly increased by the absence of promulgated policies and legal interpretations.

Scholars, researchers, and policy analysts can play a valuable role in bringing clarity to this issue. They can study specific federal agencies that administer education programs or enforce laws related to them. They can also look at how the laws under the jurisdiction of those agencies may affect the current or future consequences of minimum-competency programs. As a result of their studies, they can determine whether those federal agencies should devote more attention to the minimum-competency issue. Among the agencies where study is particularly needed are the Civil Rights Division of the United States Department of Justice,³¹ and the Bureau of Education for the Handicapped, the Office of Bilingual Education, and the Office of Indian Education in USOE.

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So far, the interest in minimum-competency programs on the part of the two federal agencies described in this paper has been largely reactive. Whether a reactive role is in the best educational interests of protected classes or even consistent with the spirit of those agencies' administrative and enforcement obligations is questionable. The appropriate role can be determined only by a careful analysis of the laws under which those agencies operate and of the ways in which those laws relate to the effects of minimum-competency programs on protected classes of students. Meanwhile, minimum-competency programs are being implemented, protected classes of students are being affected by them, and there are no recognized or enforced standards to assure that the educational interests of those students will be protected.

Notes

1. Some of these standards are more thoroughly discussed in Southeastern Public Education Program (26), Center for Law and Education (6), and McClung (17).
2. 42 United States Code (U.S.C.), 200d. The 1974 United States Supreme Court decision in Lau v. Nichols (414 U.S. 563) extended Title VI to protect children with limited English-speaking ability.
3. 20 U.S.C., 2701.
4. 20 U.S.C., 1681.
5. 29 U.S.C., 794.
6. Technically, the term "protected classes" refers to citizens of a racial, religious, or ethnic group that the Supreme Court has found to be covered by the equal protection clause of the Fourteenth Amendment of the U.S. Constitution. In this paper, the term is used to apply also to groups such as women and persons with handicapping conditions to whom the protections of law have been extended by the U.S. Congress.
7. A more extensive analysis and additional illustrations can be found in Rosewater (25) and McClung (17).
8. 45 Code of Federal Regulations (C.F.R.), Part 185.
9. 45 C.F.T., Part 84.
10. HEW Memorandum by Office for Civil Rights (OCR) Director Martin Gerry, "Identification of Discrimination in the Assignment of Children to Special Education" (August, 1975).
11. HEW Memorandum by OCR Director J. Stanley Pottinger, "Identification of Discrimination and Denial of Services on the Basis of National Origin" (May, 1970), and "Application of Lau Remedies" (April 8, 1976).
12. HEW Memorandum by OCR Director Peter Holmes, "Elimination of Sex Discrimination in Athletic Programs" (September, 1975).
13. 45 C.F.R., Part 185.43(c).
14. 45 C.F.R., Part 80.3(b). (6) (1).
15. 45 C.F.R., Part 80.3(b)(2).

16. 45 C.F.R., Part 84.4(i).
17. Letter from the author to Lamar Clements, Elementary and Secondary Education Branch Chief, Region IV OCR, September 27, 1977.
18. Letter from the author to David Tatel, director of OCR, February 9, 1978.
19. Letter to the author from David Tatel, May 5, 1978.
20. Memorandum from OCR Director to Al Hamlin, Mel Levinthal, Michael Middleton (June 12, 1976).
21. Letter from Marian Wright Edelman to David Tatel, June 22, 1978.
22. Letter from Vito Perrone to David Tatel, August 30, 1978.
23. Letter from David Tatel to Vito Perrone, October 16, 1978.
24. As ascertained in telephone interviews with selected OCR personnel, February-April, 1979.
25. Interview with Lamar Clements, February, 1979.
26. 45 C.F.R., Part 116.40(b).
27. 45 C.F.R., Part 116a.21(d).
28. 45 C.F.R., Part 116a.21.
29. Letter to the author from Ernest Boyer, September 26, 1977.
30. Telephone interviews with selected DED personnel, February, 1979.
31. In a letter of December 15, 1978, to Drew Days, assistant attorney general for civil rights of the Department of Justice, the author requested information concerning activities of the Civil Rights Division regarding the possible civil rights implications of minimum-competency programs. To date, no answer has been received.

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4. Southeastern Public Education Program, American Friends Service Committee. A Citizen's Introduction to Minimum Competency Programs for Students. Columbia, S.C.: SPEP, 1978.